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United States Department of State

Washington, D.C. 20520

www.state.gov

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Dear Mr. Gutknecht:

This is in response to your letter of September 16 regarding assistance the United States Government is providing to the Federal Republic of Germany in connection with the German retrial of Mounir el Motassadeq on terrorism-related charges.

The United States Government, in particular the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI), has provided extensive formal and informal assistance to the German government in connection with the trial and retrial of Motassadeq, as well as the trial of Abdelghani Mzoudi, who also was accused of membership in a Hamburg-based terrorist organization.

Following the events of September 11, 2001, DOJ assigned an attorney from its Terrorism Section to support German prosecutors, and a German prosecutor was co-located in the Department of Justice to facilitate communication on these cases. German requests for formal and informal assistance on these matters are given priority by senior DOJ officials and by the U.S. Government generally. In addition, DOJ and FBI have conducted extensive and continuing dialogue and informal information-sharing with their German counterparts, in order to ensure that we are cooperating to the greatest extent possible consistent with domestic national security interests. DOJ and FBI officials have traveled to Germany on numerous occasions to discuss and advance the German cases.

The United States has provided extensive documentary evidence obtained from our criminal investigation into the September 11 attacks for use at all three German trials. In the trials of Motassadeq and Mzoudi, we provided an FBI Special Agent to testify about this evidence; this agent is also scheduled to testify in the Motassadeq retrial. At all times during the three Hamburg trials we have indicated to the German prosecutors our willingness to provide additional evidence, witnesses, or other assistance to the greatest extent possible.

The Honorable
Gil Gutknecht,
House of Representatives.

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: SHARON E AHMAD
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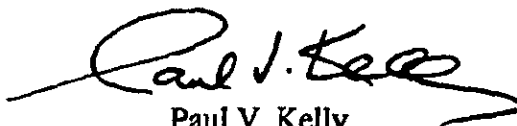
In the course of the Motassadeq retrial, the German government has made several requests to the U.S. Department of Justice for information and evidence. In particular, Germany requested that three individuals it believes are detained by the United States as enemy combatants be made available to testify in the Hamburg proceedings. After extensive interagency consultations within the U.S. government, as well as extensive informal conversations with the German prosecutors, U.S. officials reviewed the available information and prepared unclassified summaries of statements (known as "substitutions" under U.S. law) of statements from Ramzi Binalshibh and Khalid Sheikh Mohammed. DOJ has provided these statements, along with other evidence, to German authorities for use at the Motassadeq retrial. DOJ continues to assess whether we possess additional relevant information for the German proceedings.

It should be noted that U.S. prosecutors in the ongoing criminal proceedings against Zacarias Moussaoui on terrorism charges related to the September 11 attacks also have not had direct access to detained enemy combatants captured and detained outside the United States, and are limited to the use of similar substitutions. Thus, the German law enforcement community is being afforded information and access comparable in character to that being afforded to the Department of Justice's own prosecutors.

Finally, the press has reported that Motassadeq's defense lawyers regard some of the information provided by the United States in this case as tending to exculpate their client. The duty of the United States in responding to the German requests for mutual assistance is to provide all possible responsive evidence regardless of its potential effect on the proceedings, in order to ensure that a fair trial takes place. It is for the Hamburg court, in any event, to evaluate all of the evidence in the case.

We hope this information is helpful. If you need further assistance, please contact my colleague, Assistant Legal Adviser Linda Jacobson, at (202) 647-7324.

Sincerely,



Paul V. Kelly
Assistant Secretary
Legislative Affairs

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